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BLOOD HURST & O' REARDON, LLP

12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

14 Kevin Ramirez, on his own behalf and on behalf Case No.
of all others similarly situated,

15 Plaintiffs,

16 v.

17 ELECTRONIC ARTS, INC.,

18 Defendant.

CLASS ACTION COMPLAINT

CLASS ACTION

19 **JURY TRIAL DEMANDED**

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3 “We should be very reticent of creating an experience where the outcome can be
4 influenced by spending money. ***Loot boxes play on all the mechanics of gambling except
for the ability to get more money out in the end.***”
5
6

7 “Do we want to be like Las Vegas, with slot machines or do we want to be widely
8 respected as creators of products that customers can trust?”
9
10

11 “***We have businesses that profit by doing their customers harm.***”
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14 - Tim Sweeney, Co-Founder of Epic Games
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1 Plaintiff Kevin Ramirez files this Class Action Complaint against Electronic Arts, Inc (“EA”
 2 or “the Company”) for damages, injunctive relief, and other equitable relief. Plaintiff brings this
 3 action based upon personal knowledge of the facts pertaining to himself, and on information and
 4 belief as to all other matters, by and through the investigation of undersigned counsel.

5 **NATURE OF THE ACTION**

6 1. The California legislature has declared a public policy against gambling activities:
 7 “Gambling can become addictive and is not an activity to be promoted or legitimized as
 8 entertainment for children and families.” Cal. Bus. & Prof. Code § 19801(c). Through its wildly
 9 popular video games it markets to consumers, EA engages in predatory practices enticing
 10 consumers, including children and adults, to engage in gambling and similar addictive conduct in
 11 violation of this policy and other laws designed to protect consumers and to prohibit such practices.

12 2. Not unlike Big Tobacco’s “Joe Camel” advertising campaign, EA relies on creating
 13 addictive behaviors in consumers to generate huge revenues. EA is most well-known for its sports
 14 franchise games, including its FIFA soccer, Madden NFL, NHL, and NBA Live series of games.
 15 Over the last several years, EA’s sports franchise games have brought in billions of dollars in
 16 significant part from in-game purchases by gamers.

17 3. A large percentage of EA’s sports franchise game revenues come from the in-game
 18 purchases known in the gaming industry as “loot boxes” or “loot crates.” The specific Loot Boxes
 19 in EA’s sports franchise games are called “Ultimate Team Packs.”

20 4. EA’s Ultimate Team Packs are Loot Boxes. Buying the Packs are nothing more than
 21 a gambling bet. Purchased using real money, the Ultimate Team Packs are simply wagers on
 22 completely randomized chances within the game to win valuable professional players and other
 23 items for the EA gamer’s virtual sports team. EA assigns a skill rating ranging from 0 to 100 to each
 24 professional athlete represented in the game; the higher the virtual athlete’s skill, the higher the
 25 assigned rating.¹ If won, skilled players are valuable to gamers because the gamers often compete

27 ¹ In order to avoid confusion, throughout this Complaint a video game player is referred to as
 28 a “gamer” or “consumer,” while the professional athlete represented in the game is referred to as a
 “player.”

1 against each other online and in tournaments. Higher rated players perform better in the virtual
2 games, so any gamer with higher-rated players has a competitive advantage when competing. In
3 fact, the only realistic way a gamer can be competitive is to have highly rated players on the gamer's
4 virtual team. And the only way a gamer can obtain the most highly rated players is to purchase the
5 Ultimate Team Packs (i.e., a Loot Box) and hope to overcome the odds to win a highly rated player
6 upon "opening" the Pack.

7 5. As in all of EA's games with Loot Boxes, the Ultimate Team Packs are purchased
8 using in-game currency. This in-game currency, in turn, is purchased with real money.

9 6. Unsurprisingly, the highest rated players in the game are also the most difficult to
10 obtain, and least likely to be received via Ultimate Team Packs. Conversely, most players and items
11 in the Ultimate Team Packs tend to be common or undesirable to the gamer.

12 7. Some of these specific high-demand players in the game can be so difficult (and
13 costly) to obtain, that a "gray market" has sprung up on the internet – websites where the game
14 accounts and in some cases individual players can be (and are) bought and sold for real money
15 outside of the game itself. Numerous websites have been created to broker these transactions,
16 bringing buyer and seller together to sell these items and accounts, for real money outside the game.

17 8. The EA Ultimate Team Packs have all the hallmarks of a Las Vegas-style slot
18 machine, including the psychological aspects to encourage and create addiction. Moreover, under
19 California law they constitute illegal "slot machines or devices" when played on a console,
20 computer, mobile phone, tablet or other similar device. California Penal Code § 330(d) broadly
21 defines an unlawful "slot machine or device" as,

22 a machine, apparatus, or device that is adapted, or may readily be converted, for use
23 in a way that, as a result of the insertion of any piece of money or coin or other object,
24 or by any other means, the machine or device is caused to operate or may be operated,
25 and by reason of any element of hazard or chance or of other outcome of operation
26 unpredictable by him or her, the user may receive or become entitled to receive any
27 piece of money, credit, allowance, or thing of value, or additional chance or right to
28 use the slot machine or device, or any check, slug, token, or memorandum, whether
of value or otherwise, which may be exchanged for any money, credit, allowance, or
thing of value, or which may be given in trade, irrespective of whether it may, apart
from any element of hazard or chance or unpredictable outcome of operation, also

1 sell, deliver, or present some merchandise, indication of weight, entertainment, or
 2 other thing of value.

3 Cal. Pen. Code § 330(b)(d).

4 9. Governments, regulators, psychologists and other researchers, all agree that Loot
 5 Boxes, like the ones Defendant employs in its games, operate as gambling devices for those that
 6 play the game and that they create and reinforce addictive behaviors.

7 10. For instance, the Government of Belgium examined the use of Loot Boxes in various
 8 video games – specifically including EA’s Ultimate Team Packs in its FIFA soccer game – and
 9 determined that they violated that country’s gambling laws, specifically finding,

10 The paid loot boxes in the examined games Overwatch, [EA’s] FIFA 18 and
 11 Counter-Strike: Global Offensive fit the description of a game of chance because all
 12 of the constitutive elements of gambling are present (game, wager, chance, win/loss).

13 11. Likewise, in September 2019, Great Britain Parliament’s Digital, Culture, Media and
 14 Sport Committee issued a report to Parliament determining that Loot Boxes constitute gambling and
 15 encourage addictive behavior and recommending that the sale of Loot Boxes to children should be
 16 banned. Committee Chair Damian Collins MP said:

17 Loot boxes are particularly lucrative for games companies but come at a high cost,
 18 particularly for problem gamblers, while exposing children to potential harm. Buying
 19 a loot box is playing a game of chance and it is high time the gambling laws caught
 up. We challenge the Government to explain why loot boxes should be exempt from
 the Gambling Act.

20 12. Similarly, psychologists who have studied the issue agree that Loot Boxes correlate
 21 with problem gambling among both children and adults. For example, one such published review
 22 of current studies concluded the scientific findings are “very consistent”:

23 [T]he findings are very consistent that there is an association between problem
 24 gambling and loot box buying among both adolescents and adults (and that the
 25 association may be even stronger among adolescents).²

26 ///

27 ² Mark D. Griffiths, *Loot box buying among adolescent gamers: A cause for concern?*,
 28 Education and Health, 37(3):63-66 (2019).

1 13. Even EA implicitly concedes the Ultimate Team Packs in its games are a form of
 2 gambling. Although the reasonable consumer will not read or understand them, like the California
 3 state lottery, EA discloses the odds of winning or “pack probabilities” for its games. EA’s “Pack
 4 Probability in FIFA Ultimate Team” states:

5 On the FIFA Ultimate Team Store screen, you’ll see an option under every pack
 6 available for purchase that reads “Show Pack Probabilities.” Because there are
 7 thousands of player items in [FIFA Ultimate Team], they are categorized by item
 8 type and rating. The percentages that you see are the minimum probability of getting
 9 one or more players in the ratings range and category listed. ... Any probability
 10 percentages that you see are on a pack-by-pack basis and are not cumulative. That
 11 means that each pack opening is an independent event; opening multiple packs does
 12 not change the likelihood of being awarded an item from a specific category. If you
 13 flip a coin three times and get heads each time, you still have a 50% chance of getting
 14 heads if you flip the coin again.³

15 14. EA is earning huge sums from its predatory Loot Boxes. According to one analyst,
 16 Loot Boxes account for approximately 30% of EA’s revenues. According to the EA’s most recent
 17 annual report, EA earned more than \$5.5 billion dollars in net revenue for fiscal year 2020, with
 18 approximately 27% of that amount from its Ultimate Team sales. And EA’s revenue from Loot
 19 Boxes is only getting larger. EA’s most recent quarterly report disclosed record growth. Quarterly
 20 net bookings were \$1.39 billion, up \$608 million from the prior year, and Ultimate Team was up
 21 70%.

22 15. EA is fully aware it violates gambling laws, but it has conducted the cost-benefit
 23 analysis and has chosen to go forward with its current “business model” because violating the
 24 gambling laws is so profitable. EA acknowledges “governmental organizations have applied
 25 existing [gambling] laws and regulations to certain mechanics commonly within our games,
 26 including the Ultimate Team mode associated with our sports franchise.” EA is aware of the
 27 consistent research findings on the predatory nature of its Loot Boxes and EA could protect
 28 unsuspecting adults and children by removing Loot Boxes from its games. Instead, EA chooses
 massive short-term profits and merely seeks to limit its liability with regard to investors and

³ <https://www.ea.com/games/fifa/news/fifa-pack-probabilities>

1 securities litigation with disclosures buried in its public filings that “Certain of our business models
 2 are subjects to new laws or regulations...related to gambling.”⁴

3 **THE PARTIES**

4 16. Plaintiff Kevin Ramirez is a citizen of the State of California and a resident of
 5 Riverside County. Since approximately 2011, Plaintiff Ramirez has owned and played FIFA’s
 6 Ultimate Teams series of games, and since 2013, he has owned and played Madden NFL’ Ultimate
 7 Teams series of games. Plaintiff purchased and plays EA’s FIFA and Madden NFL video games on
 8 a Microsoft Xbox console. In the course of playing FIFA and Madden NFL, and as a result of
 9 Defendant’s conduct, Plaintiff Ramirez has been induced to spend money to purchase Ultimate
 10 Team Pack “Loot Boxes” in-game. Plaintiff continues to own and play the games. Plaintiff most
 11 recently spent money to purchase Ultimate Team Pack “Loot Boxes” in FIFA in approximately June
 12 2020. Plaintiff estimates he has spent in excess of \$600 on in-game Loot Boxes in exchange for the
 13 random-chance possibility of winning valuable players. To the extent he plays the EA games in the
 14 future, he will be subjected to Defendant’s predatory Loot Box scheme.

15 17. Defendant Electronic Arts, Inc is a video game company with its principal place of
 16 business at 209 Redwood Shores Parkway, Redwood City, California. EA’s Redwood City,
 17 California headquarters is where its officers direct, control, and coordinate the company’s activities
 18 relating to the development, marketing and sale of the games and Loot Boxes at issue. EA is engaged
 19 in continuous and significant business in the State of California consisting of, among other things,
 20 design and development, retail operations, advertising, marketing, and distribution activities.

21 **JURISDICTION AND VENUE**

22 18. This Court has diversity jurisdiction over the claims asserted herein on behalf of a
 23 nationwide class pursuant to 28 U.S.C. § 1332, as amended in February 2005 by the Class Action
 24 Fairness Act. Jurisdiction is proper because:

25 (a) The proposed class includes more than 100 members, and the named plaintiff
 26 and many of the class members are citizens of states that are diverse from the state of Defendant’s
 27

28 ⁴ Electronic Arts, Inc., Fiscal Year 2020 Annual Report (Form 10-K) (May 5, 2020).

1 citizenship, the amount in controversy in this class action exceeds five million dollars, exclusive of
 2 interest and costs; and,

3 (b) Defendant has purposefully availed itself of the privilege of conducting
 4 business activities within the State of California, where EA has its principal place of business; where
 5 its officers direct, control, and coordinate EA's activities, and where EA engaged in the unlawful
 6 conduct alleged herein.

7 19. Venue properly lies in this District pursuant to 28 U.S.C. § 1331(b)(1), as EA is
 8 headquartered in this District.

9 **INTRADISTRICT ASSIGNMENT**

10 20. Pursuant to Civil L.R. 3-2(c) and (d), assignment to the San Jose Division is proper
 11 because a substantial part of the conduct which gives rise to Plaintiff's claims occurred in this district
 12 and specifically in San Mateo County, where Defendant is headquartered.

13 **SUBSTANTIVE ALLEGATIONS**

14 **Defendant EA Sports and its Loot Box Games**

15 21. EA develops, markets, publishes and sells video games, content and services that can
 16 be played on game consoles (e.g., Microsoft Xbox and Sony PlayStation), PCs, mobile phones and
 17 tablets (e.g., Apple and Google / Android video game applications). EA's portfolio includes brands
 18 that it either wholly owns (such as Battlefield, The Sims, Apex Legends, Need for Speed and Plants
 19 v. Zombies) or licenses from others (such as FIFA, Madden NFL and Star Wars).

20 22. EA makes money principally through two methods of generating revenue from the
 21 games it sells. First, it profits from the game sales themselves – with about half being purchased as
 22 digital downloads and half as physical discs. Second, after the game is purchased, EA entices the
 23 gamer to make in-game purchases in order to improve the playing experience, be more competitive
 24 in online games and tournaments, and advance in the game.

25 23. EA also offers free download versions of certain mobile games, such as FIFA,
 26 Madden NFL, and NHL. EA partners with Apple and Google to make the games available on
 27 Apple's iPhones and iPads through the Apple App Store and on Android-based phones and tablets
 28 through the Google Play Store. EA monetizes its free mobile games through the sale of Loot Boxes.

1 24. EA's most lucrative games are its sports franchise games such as FIFA soccer,
 2 Madden NFL, NHL, and NBA Live. However, EA has a stable of other popular games, including
 3 the "Star Wars Battlefront" series of games, "Apex Legends," and the "Plants vs. Zombies"
 4 franchise. Most, if not all, of EA's games rely heavily on the Loot Box mechanism to monetize the
 5 gamer and make billions of dollars in revenues. Depending on the game, the Loot Boxes take
 6 different forms or appearances, but they all meet the definition of gambling as set forth herein and
 7 rely on the same predatory practices to consumers to spend money on games of chance.

8 25. In its SEC Filings, EA refers to its "Ultimate Team" Loot Box mechanics as part of
 9 its "live services" in the games themselves. These gambling mechanisms have become a massive
 10 revenue generator for EA, and this monetization through "gamblification" is growing. EA admits
 11 Loot Boxes are a crucial and growing part of its multi-billion-dollar revenue stream:

12 Our most popular live service is the extra content purchased for the *Ultimate Team*
 13 mode associated with our sports franchises. *Ultimate Team* allows players to collect
 14 current and former professional players in order to build and compete as a
 15 personalized team. Net revenue from extra content sales for *Ultimate Team* was
 16 \$1,369 million, \$1,180 million and \$867 million during fiscal years 2019, 2018 and
 17 2017, respectively, a substantial portion of which was derived from *FIFA Ultimate*
 18 *Team*. Our digital transformation also is creating opportunities in platforms, content
 19 models and the way in which players engage with our games and services. For
 example, we have leveraged brands and assets from franchises historically associated
 traditional gaming, such as FIFA, Madden NFL, The Sims, SimCity and Star Wars,
 to create free-to-play games that are monetized through live services provided with
 the game.⁵

20 26. FIFA is an international soccer video game series developed, marketed by and sold
 21 by EA. FIFA is usually updated and re-designated every year, such that FIFA 18 became FIFA 19,
 22 which then became FIFA 20 for this year. While every annual update adds new features for game
 23 play, all the game versions in the FIFA series contain the Ultimate Team Packs for purchase – which
 24 always operate the same way. The video game is available for purchase and download to be played
 25 on video game consoles (such as the Sony PS4, Microsoft Xbox One, and Nintendo Switch) and
 26

27 ⁵ Electronic Arts, Inc., Quarterly Report for Period Ended Dec. 31, 2019 (Form 10-Q) (Feb.
 28 4, 2020).

1 computers. There is also a mobile app version for the game that is available for download to
2 smartphones and tablets through the Apple App Store and Google Play store. FIFA is EA's largest
3 and most popular game and franchise, representing 12% of its net revenue in fiscal year 2020.

4 27. Similar to the FIFA series, Madden NFL is an American football video game series
5 developed, marketed and sold by EA. It is currently the only officially licensed National Football
6 League (NFL) video game. It has been updated every year like the FIFA series. This game is also
7 available for purchase and download to be played on video game consoles and computers. There are
8 also mobile app versions available for this game to download to smartphones and tablets.

9 28. NHL is the EA sports franchise game series based on the (and licensed with) the
10 National Hockey League. It is purchased, downloaded, and played just like the FIFA and Madden
11 NFL series. It is also updated every year.

12 29. NBA Live is the EA sports franchise game series based on the National Basketball
13 Association. It is purchased, downloaded, and played just like the FIFA, Madden NFL, and NHL
14 series. It is also updated yearly, can be played on video game consoles or computer, and has mobile
15 app versions available for download to smartphones and tablets through the Apple and Google app
16 stores.

17 30. EA's FIFA, Madden NFL, NHL, and NBA Live games are integral parts of EA's
18 sports franchise games and, for purposes of this lawsuit, all operate in the same manner. Plaintiff
19 refers to them collectively herein. Each of these sports franchise games includes different modes of
20 play. Gamers can choose to participate in challenges, play against the computer, or play online in
21 challenges, games, leagues, and tournaments.

22 31. Each of the games use the Loot Box mechanism in the same way in order to monetize
23 gamers. In each of the sports franchise games, the Loot Box mechanism is an Ultimate Team Pack.
24 These Packs are purchased to create a team of highly-rated players in the "Ultimate Team" mode of
25 game play, in order to compete against other gamers online.

26 **Ultimate Team Packs and Loot Boxes Explained**

27 32. "Loot Boxes" are in-game mechanisms that provide players with completely
28 randomized virtual items from a purchase.

1 33. EA explains in securities filings that it sells “variable digital items” to consumers:
 2 “[W]e have included in certain games the ability for players to purchase digital items, including in
 3 some instances virtual ‘packs,’ ‘boxes,’ or ‘crates’ that contain variable digital items.”⁶

4 34. EA is well aware that its Loot Boxes constitute illegal gambling and concede that its
 5 “business models are subject to . . . application of existing laws and regulations, including those
 6 related to gambling.”⁷ Nonetheless, it chooses to sell Loot Boxes, risking violation of anti-gambling
 7 laws because they are so profitable.

8 35. In their paper entitled “Predatory monetization schemes in video games (e.g., ‘loot
 9 boxes’) and internet gaming disorder,” Professors Daniel King and Paul Delfabbro provided the
 10 following description of a Loot Box:

11 A loot box refers to an in-game reward system that can be purchased repeatedly with
 12 real money to obtain a random selection of virtual items. The low probability of
 13 obtaining a desired item means that the player will have to purchase an indeterminate
 14 number of loot boxes to obtain the item. Loot boxes resemble gambling slot
 15 machines because they require no player skill and have a randomly determined
 16 outcome (i.e. prize).⁸

17 36. To further entice consumers to spend real money on the randomized Ultimate Team
 18 Packs, the games use a “virtual” money system within the game. Although the names are different,
 19 in each game the in-game currency is obtained and used in the same manner. For instance, in FIFA,
 EA refers to the in-game currencies as “Points” and “Coins” while in Madden NFL it is called
 “Madden Cash.”

20 37. These in-game currencies can be earned as a result of in-game performance or can
 21 be purchased with real money. For example, FIFA “Points” can only be purchased with real money
 22 but FIFA “Coins” can be earned through in-game performance or purchased with real money. As
 23 the gamer advances in the game, EA designs the game so it takes an increasing amount of time spent
 24 playing the game in order to achieve enough in-game currency to purchase an Ultimate Team Pack.

25
 26 ⁶ Electronic Arts, Inc., Fiscal Year 2020 Annual Report (Form 10-K) (May 5, 2020).

27 ⁷ *Id.*

28 ⁸ King, Daniel and Delfabbro, Paul H., “Predatory monetization schemes in video games (e.g.
 ‘loot boxes’) and internet gaming disorder,” *Addiction*, 2018.

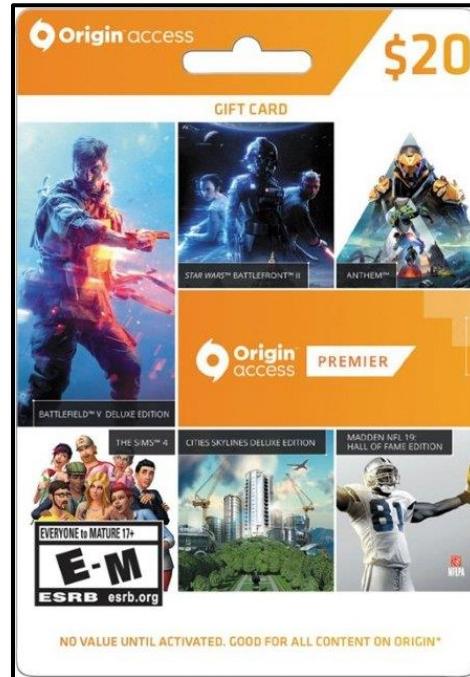
1 Thus, it becomes increasingly attractive to spend money to purchase Ultimate Team Packs instead
2 of “earning” them through game play. As discussed in paragraph 76 below, scientific researchers
3 study this aspect of video game mechanics. EA and other developers intentionally design games this
4 way to increase the gamers’ frustration with the game’s free or earned aspects and profit off the
5 ensuing “demand through inconvenience.”

6 38. Moreover, EA issues a “new” version of the game every year – requiring the gamer
7 to start over with a new “Ultimate Team” if he wants to play the latest version of the game
8 competitively. For example, in 2018 the game FIFA 18 was re-issued with certain tweaks and new
9 features as FIFA 19, and a year later was re-issued again as FIFA 20. When re-issuing an updated
10 version of the game each year, new players are added, player ratings are adjusted, and the gamer’s
11 Ultimate Team resets. Thus, a gamer playing FIFA 18 may have spent substantial sums of money
12 creating an Ultimate Team *in that game*. But if the same gamer wants to play and compete in the
13 new version of FIFA 19, he has to start all over again – purchasing more Ultimate Team Packs to
14 build his team in that game. His FIFA 18 “Ultimate Team” does not transfer to the new FIFA 19
15 game.

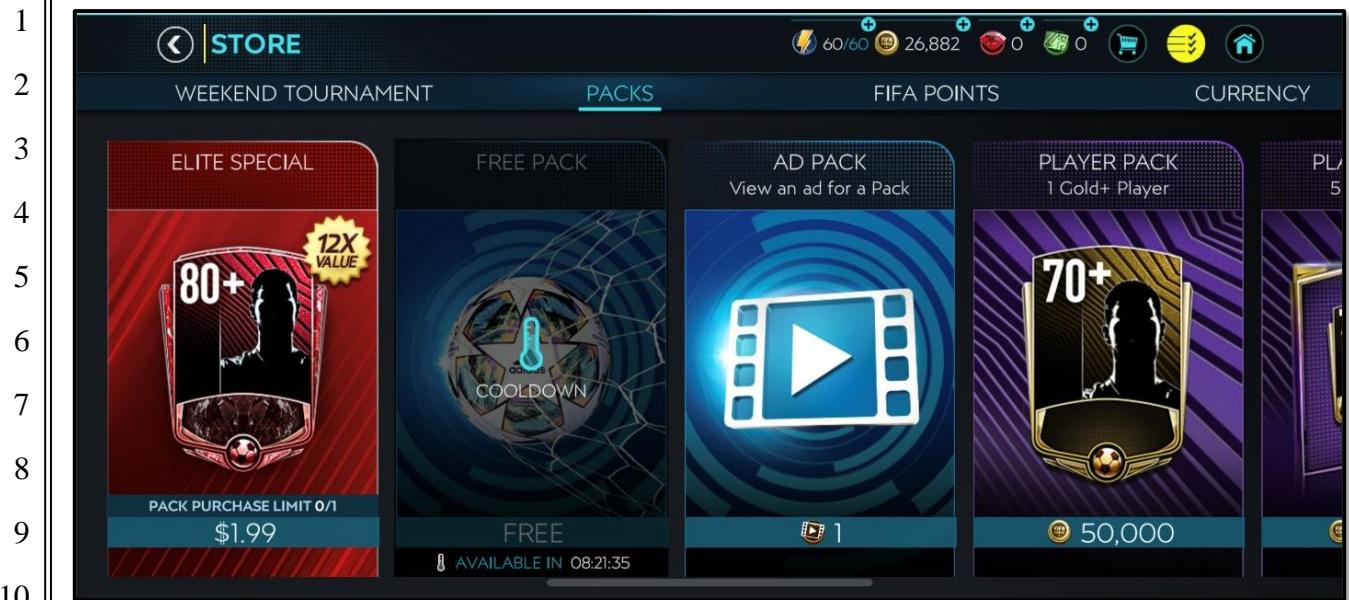
16 39. EA’s Loot Box Ultimate Team Packs are purchased in-game through the device –
17 either the game console, computer, or (increasingly) the smartphone. It is usually done with a credit
18 card linked to the account or with gift cards purchased online and at retail stores, or directly from
19 EA. The money from a credit card on file, or the value of the gift cards (called “EA Origin Game
20 Cards”) can be deposited electronically into an EA virtual “Wallet” from which it can then be spent
21 in-game. EA purportedly allows minors aged 13 or older to “own” and use their own EA “wallets”
22 without parental supervision, although EA has no method for policing or monitoring the age of the
23 EA wallet user. As a result, the age limit of 13 years-old is not enforced and anyone can create a
24 virtual “wallet.”

25 40. EA Origin Game Cards can be purchased online and at various retail stores in
26 different dollar denominations. For example, a gamer may purchase an EA Origin Game Card worth
27 \$20 from BestBuy, Walmart, or Amazon. *See, e.g.,* <https://www.walmart.com/ip/EA-20-eCard-Email-Delivery-Electronic-Arts/21125837> (Walmart \$20 EA Origin Game Card). Once the money

1 is deposited electronically into a gamer's EA virtual "wallet," the money can be used to purchase
 2 in-game currency such as "Coins", "Points" or "Madden Cash" to then purchase Ultimate Team
 3 Packs.



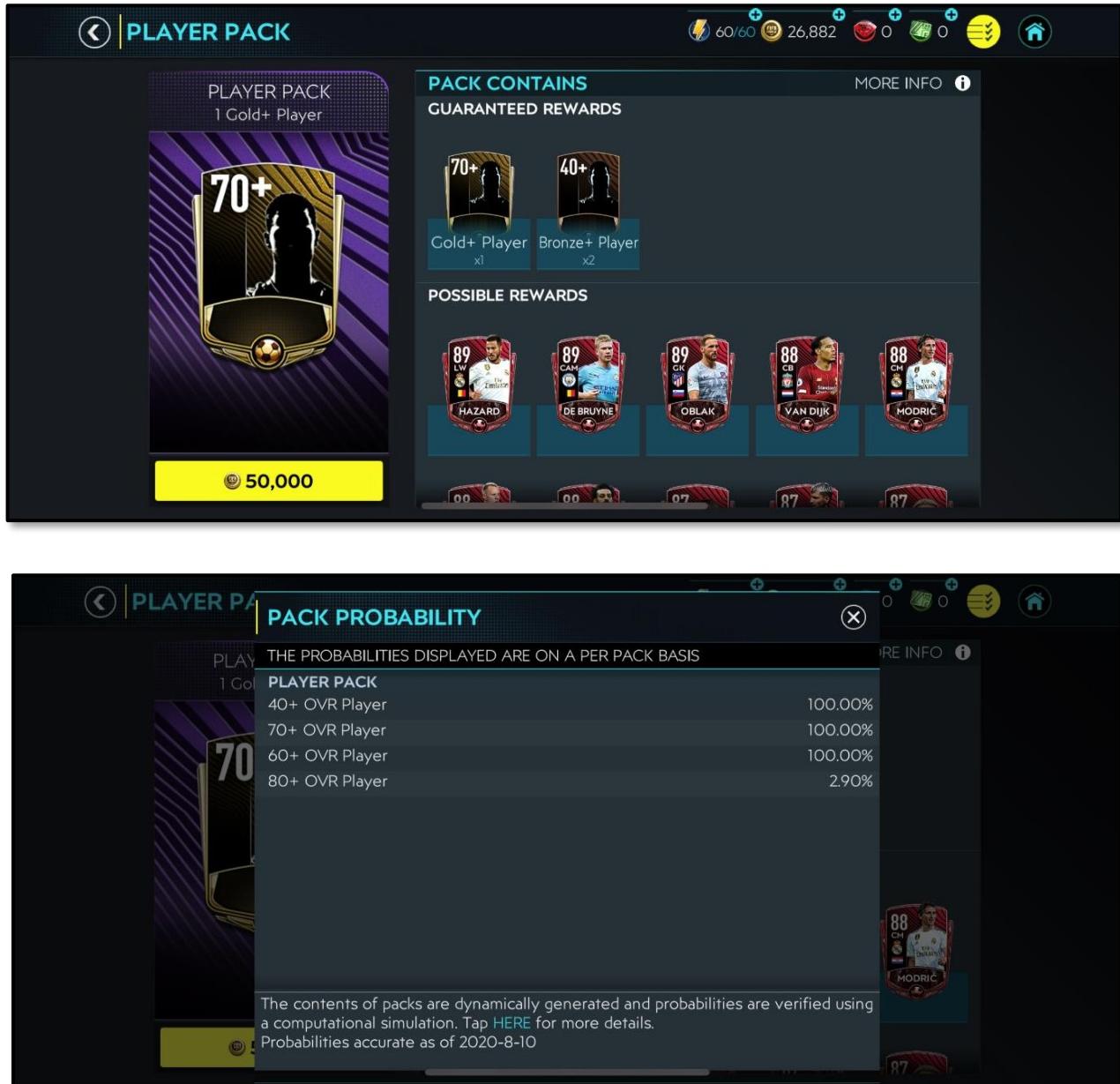
15 41. To purchase Ultimate Team Packs, all the gamer has to do is go to "store" on the
 16 main menu. Ultimate Team Packs are usually listed for sale by the necessary Ultimate Team "Coins"
 17 or "Points", or by a specific dollar amount. For example, in Madden NFL, Ultimate Team Points
 18 can be purchased with Madden "Cash." Clicking on the Pack will offer the gamer the opportunity
 19 to purchase additional Madden Cash with real currency, which is then converted to Ultimate Team
 20 Points. As demonstrated in the screenshot below, a FIFA gamer can choose to purchase the Loot
 21 Box described as an "Elite Special" Ultimate Team Pack for \$1.99 or spend 50,000 Ultimate Team
 22 Coins (purchased with real money) to purchase the Loot Box called "Player Pack: 1 Gold+ Player
 23 70+."



11 42. Once purchased, the Ultimate Team Pack is opened by the gamer. EA's mechanism
 12 does everything possible to build up the gamer's hoped-for win, tension, and excitement. EA builds
 13 in physiologically arousing gambling cues to this pernicious aspect of its video games. Once the
 14 gamer presses the card, music starts, lights begin streaming across the screen, and the card bursts
 15 open with different color lights or icons representing the type of card so one can see how rare they
 16 are based on their color. Only after all the cards burst open, is the gamer able to see which player
 17 has been obtained. This colorful, animated system more often than not gives the gamer lowly-rated
 18 players or even duplicates of players already obtained. The odds that the gamer will receive exactly
 19 the item desired are extremely small.

20 43. While EA games now "display" certain odds of receiving levels of players, this
 21 limited information does not disclose the odds of receiving any particular player and it is not
 22 prominently displayed but hidden in a small "more info" box that must be clicked on right before
 23 purchase. However, what *is* prominently displayed are the most desirable and unlikely rewards, that
 24 picture only star players. While the odds of receiving these players are low, gamers are enticed to
 25 believe that they will receive one of the highly-rated, star players by buying the pack. Below is a
 26 screenshot of a FIFA Ultimate Team Pack available to purchase and the limited disclosure of the
 27 gambling probabilities accessed by clicking "more info":

28



21 44. The excitement and disappointment is captured in numerous YouTube videos. The
 22 gamers in the YouTube videos are sitting or standing tensely waiting for the card to be revealed,
 23 sometimes pacing back and forth in the room, when the lights are revealed, the gamer's eyes open
 24 wide with excitement. When a high value player is revealed, the gamer jumps up and down and
 25 screams in excitement.⁹

26
 27 9 For example, a YouTube video of a Madden Ultimate Team pack opening with over 250,000
 28 views is available at: <https://www.youtube.com/watch?v=OUP1Oif0eWw>, and a FIFA Ultimate
 Team pack opening with over 14 million views is available at at:

1 45. All these circumstances attendant with the Ultimate Team Pack opening are
 2 intentionally designed to create a “slot machine effect.” Thus, even when a gamer is not receiving
 3 the desired result – which happens the vast majority of the time – there still exists a belief that the
 4 next Loot Box will contain it. This “near miss” gambling cue is further reinforced when viewing
 5 favorable results from other gamers playing their games and opening Loot Boxes on YouTube or
 6 other social media.

7 46. EA understands and intentionally fosters this effect. EA pays certain people to
 8 “stream” their playing of EA games, and to post videos of their game play on YouTube.com and
 9 other social media websites showing the excitement of betting and winning good players when
 10 opening Ultimate Team Packs as a means of enticing gamers. Seeing other gamers – including
 11 popular or well-known video gamers – playing the game and winning big encourages other gamers
 12 to bet and purchase Ultimate Team Packs and convinces them that they too could win these rare and
 13 valuable players.¹⁰

14 47. One researcher described the physical experience invoked by this Loot Box
 15 mechanism:

16 Research by Kim (1998) found that waiting for the outcome of a gamble can activate
 17 the brain’s chemical reward system, releasing endorphins that create pleasure. In a
 18 gaming context, think of someone who really wants the Pharah Anubis skin in
 19 Overwatch. They buy five loot boxes and get excited during the big flashy box-
 opening animation. This excitement happens five times in a short space of time, with
 20 five flashy box-opening animations that are almost an event in itself.¹¹

21 48. EA also utilizes in-game cues that link the gamer to gambling. For example, FIFA
 22 reproduces gambling companies’ logos in-game (e.g., Bet365, Dafabet and Betway) that are present
 23 in real-life teams’ uniforms. In contrast to FIFA’s policy, real-life teams with gambling sponsors
 24 are not permitted to produce real-life children’s uniforms with those sponsors involved. One

25 https://www.youtube.com/watch?v=CX0OZtaQ_kQ.

26 ¹⁰ See, e.g., “Top ‘Live Streamers’ Get \$50,000 an Hour to Play New Videogames Online”
The Wall Street Journal, May 18, 2019, Needleman, Sarah E.

27 ¹¹ “The Psychology of Loot Boxes and Microtransactions,” Psychology and Video Games
 28 (June 6, 2018), available at <http://platinumparagon.info/the-psychology-of-loot-boxes-and-microtransactions/>.

commenter states that “[t]he ubiquity of gambling messages throughout EA’s game facilitates a normalisation of gambling for anyone playing FIFA.”¹²

49. Commenting on the Loot Box mechanism incorporated into games like EA's sports franchise games, Hawaiian congressman Chris Lee noted that these Loot Boxes "are specifically designed to exploit and manipulate the addictive nature of human psychology."

Ultimate Team Packs Create and Reinforce Addictive Behaviors Akin to Gambling Addiction

50. Psychologists call the principle by which Loot Boxes work on the human mind, “variable rate enforcement.” This kind of reward structure underpins many forms of gambling. It results in people quickly acquiring behaviors and repeating these behaviors frequently in hopes of receiving a reward. Dopamine cells are most active when there is maximum uncertainty, and dopamine system responds more to an uncertain reward than if the same reward delivered on a predictable basis.

51. For numerous reasons minors, and adolescents in particular, are especially vulnerable to this type of manipulation. By some estimates, teenage gambling is the fastest rising gambling addiction. "Teenage gambling, like alcohol and drug abuse in the 1930s, is the fastest growing addiction."

52. First, adolescents have low impulse control. The teenage brain is still developing; the part of the brain that's responsible for good impulse control and decision making is not fully developed. Dr. Frances Jensen, the chair of the department of neurology at the University of Pennsylvania Perelman School of Medicine and formally Harvard professor and director of neuroscience at Boston's Children's Hospital, explains it as follows: "their frontal lobes are there. They're there and they're built. They're just not accessed in as rapid a manner because the insulation to the wiring to them isn't fully developed, so the signals go more slowly. Hence, teenagers are not as readily able to access their frontal lobe to say, oh, I better not do this. An adult is much more likely to control impulses or weigh out different factors in decisions, where a teenager may not

¹² <https://www.pcgamesn.com/fifa-20/gambling>

1 actually have full on-line, in-the-moment capacity.” Dr. Frances Jensen, *Why Teens are Impulsive-*
 2 *Prone and Should Protect Their Brains*, NPR (Jan. 28, 2015). Adolescence is a developmental
 3 period characterized by suboptimal decisions and actions. Casey et al., *The Adolescent Brain*,
 4 Annals of the New York Academy of Sciences, 1124(1):111–126 (2008). During this time, impulse
 5 control is still relatively immature. *Id.*

6 53. Second, adolescents are more inclined to engage in risk-taking behaviors and risky
 7 decision making than are adults. Gardener M & Steinberg L, *Peer influence on risk taking, risk*
 8 *preference, and risky decision making in adolescence and adulthood: an experimental study*,
 9 *Developmental Psychology*, 41:625-635 (2005). Adolescents and young adults are more inclined to
 10 risk taking because development of executive brain function and appreciation of risk is continuing
 11 in this period. Kelley et al., *Risk taking and novelty seeking in adolescence: Introduction to Part I*,
 12 Annals of the New York Academy of Sciences, 1021(1): 27-32 (2004); Steinberg L, *Cognitive and*
 13 *affective development in adolescence*, *Trends in Cognitive Sciences*, 9(2):69-74 (2005).

14 54. Third, not only are adolescents more likely to take risks, but they are also more prone
 15 to addiction. “They build a reward circuit around that substance to a much stronger, harder, longer,
 16 stronger addiction. That is an important fact for an adolescent to know about themselves - that they
 17 can get addicted faster.” Dr. Frances Jensen, *Why Teens are Impulsive- Prone and Should Protect*
 18 *Their Brains*, NPR (Jan. 28, 2015).

19 55. Last, children and adolescents often lack a critical understanding of money and
 20 financial management. Approximately one in four students in the 15 countries and economies that
 21 took part in the latest OECD Programme for International Student Assessment (PISA) test of
 22 financial literacy are unable to make even simple decisions on everyday spending, while only one
 23 in ten can understand complex issues, such as income tax. OECD, *PISA 2015 Results (Volume IV)*;
 24 *Students' Financial Literacy*, PISA, OECD Publishing, Paris (2017).

25 56. As set forth in detail above, purchasing and opening a Loot Box – by design – is
 26 visually, physically, and aurally stimulating. Opening a Loot Box gives the player a rush; the
 27 moment of anticipation followed by release. The Loot Box mechanism has been proven to be
 28 effective on adults, and its effects are only intensified when used on minors who are more prone to

1 engage in risk-taking behaviors, more prone to gambling addiction, and “are less equipped to
 2 critically appraise the value proposition of these schemes.”

3 57. In fact, virtually every study published to date on the connection between Loot Boxes
 4 and gambling has found an association. Keith Whyte, Executive Director of the National Council
 5 On Problem Gambling, explained to the FTC that Loot Boxes and slot machines are “so closely
 6 related”:

7 Given all everything we know about the similarities between boxes and slot
 8 machines, it would actually be astounding and surprising were there not such a
 9 connection. They are, in many ways, so closely related.¹³

10 58. Professor David Zendle was one of the invited academic participants to the Federal
 11 Trade Commission’s August 2019 workshop investigating Loot Boxes. Dr. Zendle has published
 12 numerous peer-reviewed papers discussing his research and surveys examining links and similarities
 13 between gambling and Loot Boxes. Based on his and others’ scientific findings, Dr. Zendle
 14 explained to the FTC the serious potential consequences of exposing vulnerable consumers to video
 15 game loot boxes:

16 That’s what I’m here to talk about today. So the reason why problem gambling is
 17 such a big topic when it comes to loot boxes, and why people care about gambling
 18 and loot boxes, is because loot boxes look so much like gambling. Both when you’re
 19 playing on a roulette wheel or while you’re opening a loot box, your wagering
 20 something that you have in your hand of value now on the uncertain hope of getting
 21 something of greater value later on. It’s that reason that loot boxes have tripped
 22 gambling regulations in a couple of countries within Europe, because of those formal
 23 similarities, and because of those formal similarities, people are a bit worried for a
 24 very long time that loot boxes by act as a gateway to problem gambling, particularly
 25 amongst young and vulnerable populations....

26 We know that one of the main pathways to problem gambling is a process of
 27 conditioning, whereby the gambler comes to need and expect the excitement
 28 associated with the gambling win. So what we think-- one of the possible
 explanations for this effect, is a situation in which people are buying a loot box,
 getting excitement, buying a loot box, getting excitement, buying a loot box, getting
 that reward, getting that hit, going out into the real world, seeing something that has

26 13 Workshop transcript from *Inside the Game: Unlocking the Consumer Issues Surrounding*
 27 *Loot Boxes*. An FTC Workshop (Aug. 7, 2019), available at
 28 https://www.ftc.gov/system/files/documents/videos/inside-game-unlocking-consumer-issues-surrounding-loot-boxes-session-2/ftc_loot_boxes_workshop_transcript_segment_2.pdf.

1 many of the formal characteristics of the loot box, like a slot machine, and that
 2 conditioning transfers over. So therefore, spending money on loot boxes, literally
 3 causes people to engage in gambling, leading to problem gambling.¹⁴

4 59. Dan Trolaro, the Assistant Executive Director of the Council on Compulsive
 5 Gambling of New Jersey, explained, “The mechanics within a loot box look and feel like a gamble.
 6 Once minors are exposed to game of chance mechanisms, there is a significantly higher risk that
 7 they will have problems with it at a later stage in their lives. The literature indicates that exposure
 8 at an early age increases the risk of addiction and the severity of the addiction.”

9 60. Other experts agree. For example, the mental health director of the UK’s National
 10 Health Service summarized their studies by declaring that the gaming industry is “setting kids up
 11 for addiction by teaching them to gamble.” According to Keith Whyte, the Executive Director of
 12 the National Council On Problem Gambling, “Those who play loot boxes, may well be on their way
 13 to developing gambling problems due to their loot box play.”

14 61. Peer-reviewed empirical research bears this out. For example, Drs. Zendle, Meyer
 15 and Over (2019) examined the relationship between Loot Box buying and problem gambling in a
 16 survey of 1,115 adolescents aged 16-18 years. They reported that “loot boxes either cause problem
 17 gambling among older adolescents, allow game companies to profit from adolescents with gambling
 18 problems for massive monetary rewards, or both.”¹⁵

19 62. Zendle and Cairns (2018) reports the findings from their scientific survey of 7,422
 20 gamers aged 18 or older. The researchers measured both how much these gamers spent on loot boxes
 21 and the severity of their problem gambling in order to “establish[] both the existence, the size, and
 22 the importance of links between purchasing loot boxes and problem gambling.” Drs. Zendle and
 23 Cairns concluded their research “provides empirical evidence of a relationship between loot box use
 24 and problem gambling. The relationship seen here was neither small, nor trivial. It was stronger than
 25 previously observed relationships between problem gambling and factors like alcohol abuse, drug
 26 use, and depression.” The relationship between other types of microtransactions and problem

27 ¹⁴ *Id.*

28 ¹⁵ Zendle et al., *Adolescents and loot boxes: links with problem gambling and motivations for purchase*, Royal Society Open Science, 6(6):190049 (June 2019).

1 gambling was not as strong, indicating a specific roll of loot boxes in this association. The
 2 researchers also observed that “[d]ue to the formal features that loot boxes share with other forms
 3 of gambling, they may be acting as a ‘gateway’ to problem gambling amongst gamers.”¹⁶

4 63. Zendle and Cairns’ 2019 peer-reviewed paper titled “Loot boxes are again linked to
 5 problem gambling: Results of a replication study,” discussed results of a survey that assessed the
 6 replicability of their survey results published in 2018 (discussed in Paragraph 62 above). The 2019
 7 paper analyzed the researchers’ large-scale survey of 1,172 gamers aged 18 and older. Drs. Zendle
 8 and Cairns observed “Loot boxes share psychological and structural features with gambling,” that
 9 there was again a “significant link” between problem gambling and loot box spending, and “the
 10 severity of the link seen here suggests that relevant authorities should seriously consider restricting
 11 access to loot boxes as if they were a form of gambling.”¹⁷

12 64. Brooks and Clark (2019) found that risky loot box use is associated with increased
 13 problem gambling symptoms and gambling related cognitions. Drs. Brooks and Clark studied the
 14 relationships between gaming involvement, engagement with loot boxes, and their associations with
 15 disordered gambling and gambling-related cognitions. In doing so, the researchers conducted two
 16 different surveys: one involving 144 adults and the other of 113 undergraduate students. According
 17 to the authors, the survey results “demonstrate that besides the surface similarity of loot boxes to
 18 gambling, loot box engagement is correlated with gambling beliefs and problematic gaming
 19 behaviour in adult gamers.”¹⁸

20 65. Similarly, in their 2019 peer-reviewed paper, Dr. Wen Li and co-authors from the
 21 Center for Gambling Studies at Rutgers University found an association between problem gambling
 22 symptoms and loot box spending, problem gaming symptoms and loot box purchasing, and loot box
 23 purchasing and psychological distress. The researchers collected data from 618 adult video gamers

25 ¹⁶ David Zendle & Paul Cairns, *Video game loot boxes are linked to problem gambling: Results of a large-scale survey*, PLoS ONE, 13(11):e0206767 (2018).

26 ¹⁷ David Zendle & Paul Cairns, *Loot boxes are again linked to problem gambling: Results of a replication study*, PLoS ONE, 14(3):e0213194 (2019).

27 ¹⁸ Gabriel A. Brooks & Luke Clark, *Associations between loot box use, problematic gaming and gambling, and gambling-related cognitions*, Addictive Behaviors, 96:26-34 (2019).

1 via an online survey to explore the relationship between loot box purchases and problem video
 2 gaming and gambling behaviors. Drs. Li et al. observed that “[t]he advent of loot box purchasing in
 3 video games has effectively introduced gambling into the video gaming environment” and
 4 concluded “loot box purchasing was directly related to increased problem video gaming and
 5 problem gambling severity” and “loot box purchases may also be indirectly related to mental distress
 6 due to its association with problem video gaming and problem gambling behavior.”¹⁹

7 66. Profs. Macey and Hamari (2018), who conducted a survey and found “evidence of a
 8 strong relationship between loot box opening (paid and unpaid) and gambling,” stated that “a real-
 9 world analogue [of loot boxes] are lottery scratch cards.”²⁰

10 **Ultimate Team Packs Are Predatory and Designed to Entice Gamers to Gamble**

11 67. Even some gamers have acknowledged that Loot Boxes like EA’s Ultimate Team
 12 Packs are gambling. “As a gamer let me tell you, Loot Boxes have gotten out of control. Gaming
 13 companies have expanded Loot Box systems, made them more predatory, and even done what they
 14 could to specifically target children with them.”²¹

15 68. Numerous gamers comment on forums discussing their addiction to buying Loot
 16 Boxes in EA sports games, such as FIFA and Madden NFL, offering their gambling experiences,
 17 addiction stories, and providing phone numbers and websites to other gamers to obtain help with
 18 their Ultimate Team gambling addiction.²² For example, one Madden NFL gamer described how
 19 the game actively encouraged more gambling in ways similar to casinos.²³

20
 21 ¹⁹ Li et al., *The relationship of loot box purchases to problem video gaming and problem*
 gambling, Addictive Behaviors, 97:27-34 (2019).

22 ²⁰ Joseph Macey & Juho Hamari, *eSports, skins and loot boxes: Participants, practices and*
 problematic behavior associated with emergent forms of gambling, New Media & Society,
 21(1):42-59 (2019).

23 ²¹ [https://www.forbes.com/sites/tedknutson/2019/08/08/video-games-can-be-a-gateway-to-](https://www.forbes.com/sites/tedknutson/2019/08/08/video-games-can-be-a-gateway-to-problem-gambling-ftc-warned/#5e0cee2c978a)
 [problem-gambling-ftc-warned/#5e0cee2c978a](#)

24 ²² https://www.reddit.com/r/MaddenUltimateTeam/comments/as25yg/gambling_and_addiction/; https://www.reddit.com/r/MaddenUltimateTeam/comments/7fxkllr/mut_gambling_problem/; [https://old.mutthead.com/forums/madden-nfl-mobile-discussion/1021905-i-cant-stop-buying-madden-cash](https://old.mutthead.com/forums/madden-nfl-mobile/madden-nfl-mobile-discussion/1021905-i-cant-stop-buying-madden-cash) .

25 ²³ <https://www.reddit.com/r/MaddenUltimateTeam/comments/absuv9/addiction>

1 69. As part of EA's predatory Loot Box scheme, EA intentionally makes the process of
 2 buying Ultimate Team Packs unnecessarily complex. Rather than simply sell Ultimate Team Packs
 3 for denominations in U.S. Dollars, EA has come up with surrogate currencies and lists the purchase
 4 price in "Coins," "Points," "Madden Cash," and other metrics deceptively designed to seem
 5 unrelated to actual money.

6 70. In FIFA, an Ultimate Team Pack can be purchased using "Coins," which in turn may
 7 be purchased using "Points," which may be purchased using real dollars. Madden NFL, NHL, and
 8 NBA Live have similar systems in place. As a result, it is frequently difficult for gamers to determine
 9 the actual amount of real money that gamer is spending due to the multiple layers of currency (i.e.
 10 from US dollars to FIFA points, to FIFA coins).

11 71. This intermediate level of virtual currency acquired through abnormal exchange rates
 12 is designed to reduce the salience of the real-world cost of Loot Box purchases and "disconnect" the
 13 gamer from the concern that real money is being gambled. The real money conversion necessary to
 14 purchase Loot Boxes has been analogized to the deception underlying casinos requiring the use of
 15 exchanged chips as its "in-game currency" because it is known players gamble "significantly more
 16 with chips than real cash."²⁴ In connection with its investigation into Loot Boxes, the Brussels
 17 Gaming Commission reached a similar conclusion about the deceptiveness of gambling with what
 18 is perceived to be virtual currency:

19 The use of points (coins) and especially their size are psychologically very
 20 sophisticated and aimed at creating a personal reality which is then disconnected
 21 from the real world. FIFA 18 teaches players to think in FUT currency and FIFA
 22 coins. . . . In Overwatch and Star Wars Battlefront II, the value of real money is also
 23 fully disconnected from the value of the in-game currency, causing players to lose
 24 contact with the real value.

25 72. For example, a "Gold" Pack in FIFA is listed for 50,000 Coins. To buy Coins, EA
 26 offers to sell 250,000 Coins for 1,000 FIFA Points. 1,000 FIFA points in turn will cost \$9.99. Based

27 26 _by_design_the_ways_ea/

28 27 28 ²⁴ Xiao Leon Y. and Henderson Laura L., "Towards and Ethical Game Design Solution to Loot
 Boxes: a Commentary on King and Delfabbro," *Int'l J. of Mental Health and Addiction*, 2019. Julius
 Weintraub coined the famous saying "The guy who invented poker was bright, but the guy who
 invented the chip was a genius."

1 on these relationships, the actual price of the Gold Pack is approximately \$1.99. Other Packs can be
 2 much more expensive. A FIFA “Elite” Pack costs approximately 5,000 FIFA points, which is
 3 approximately \$49.99. In Madden NFL, a “Gold” Pack may cost \$1.99 while an “Ultra” Pack costs
 4 10,000 Madden Cash, or approximately \$99.99.

5 73. Using “Coins” that are purchased with “Points” that are purchased with actual
 6 currency makes it difficult to tell how much a gamer is actually spending. For example, one such
 7 FIFA gamer was surprised to learn he had spent over \$10,000 in two years on his Ultimate Team.²⁵
 8 There is simply no legitimate basis for making the purchase of an Ultimate Team Pack so complex.

9 74. The producer and writer for the *Bleacher Report* gaming content also describes FIFA
 10 as a gambling system:

11 Like any effective gambling system, the big prizes—say, Lionel Messi or Cristiano
 12 Ronaldo—are not going to appear often but always seem within reach. This can lead
 13 to accumulating massive spends without knowing. A common response to the survey
 14 was players admitting they didn’t realise how much they’d spent until they sat down
 15 to work it out. One user estimated spending \$280,000 across a decade.²⁶

16 75. EA’s sports games force gamers to purchase Loot Boxes and gamble in order to
 17 potentially win better players and be competitive in the game. At the January 2019 FIFA Ultimate
 18 Team Champions Cup, a staple of the FIFA esports calendar, gamers were competing with each
 19 other using teams ***with a real-world value of approximately \$27,000.***²⁷

20 76. Indeed, EA’s games are deceptively designed to encourage spending and gambling
 21 by using game mechanics that create and exploit dissatisfaction and urgency unless money is spent
 22 on in-game items and Loot Boxes. Drs. Hamari et al. studied what drives consumers to purchase in-
 23 game “premium items.” One of the strategies of game developers (including EA) “has been to

24 ²⁵ “FIFA player uses GDPR to find out everything EA has on him, realises he’s spent over
 25 \$10,000 in two years on Ultimate Team.” Yin Poole, Wesley. *Eurogamer*. July 25, 2018. Available
 26 at: <https://www.eurogamer.net/articles/2018-07-23-fifa-player-uses-gdpr-to-find-out-everything-ea-has-on-him-realises-hes-spent-over-usd10-000-in-two-years-on-ultimate-team> .

27 ²⁶ “Is It Too Expensive To Be Good At FIFA?” Nick Ackerman. *Bleacher Report*. May 20,
 28 2019. Available at <https://bleacherreport.com/articles/2836528-is-it-too-expensive-to-be-good-at-fifa> .

27 ²⁷ *Id.*

1 increase the desirability of additional products by intentionally increasing the frustration
 2 experienced with the free core service.” This strategy of monetizing games by creating “demand
 3 through inconvenience” includes “employ[ing] gambling-like sale tactics (i.e., gamblification) to
 4 persuade users to purchase premium products.”²⁸ In other words, the business model’s “core idea”
 5 is “often to impair the use of the free service through designed inconveniences, i.e., to reduce the
 6 enjoyment in order to entice users to purchase premium services or features that eliminate the
 7 obstacles of the freemium version.”²⁹ For example, although gamers may earn coins to then purchase
 8 Ultimate Team Packs, EA purposefully impairs this game aspect by making the ability to earn coins
 9 exceedingly hard and time-consuming (or “grind” using gamer parlance) to entice spending and
 10 gambling.

11 77. EA’s Ultimate Team Packs have been described as akin to gambling on a roulette
 12 wheel or slot machine:

13 The thrill of opening a pack to hopefully land on of soccer’s most prominent names
 14 is similar to rolling the dice in roulette or pulling the lever on a slot machine. It often
 15 leads to disappointment, but the potential, however small, to win big keeps players
 16 buying packs. When FUT coins run dry, players can purchase FIFA points using real
 17 world currency and use them towards card packs. It a vicious cycle and one
 18 insidiously glorified in countless Loot Box YouTube videos.³⁰

19 **EA’s Sports Franchise Games Are Rated “E – Everyone”, “E 10+” or Ages “4+” But
 20 Do Not Disclose Gambling, “Simulated Gambling,” Or the Loot Box Mechanism**

21 78. Video game content rating systems are used by video game developers and platform
 22 providers to classify individual games into suitability-related groups organized by age ranges based
 23 on the game’s content relating to substances (alcohol, tobacco, or drugs), blood and gore, violence,
 24 mature and crude humor, profane language, depictions of nudity, real or simulated gambling, and

25 ²⁸ Hamari J, Hanner N, & Koivisto J, “*Why pay premium in freemium services?*” *A study on*
 26 *perceived value, continued use and purchase intentions in free-to-play games*, International J of
 27 Information Management, 51:102040 (2020).

28 ²⁹ *Id.*

29 ³⁰ “Proof You’ll Regret Wasting Money on That FIFA 20 Loot Box.” Thomas Bardwell. CCN,
 30 *Gaming News*. Available at <https://www.ccn.com/proof-youll-regret-wasting-money-on-that-fifa-20-loot-box/>.

1 sexual content or themes. One of the primary reasons for these ratings is to inform consumers,
 2 especially parents, of potentially objectionable content within a game.

3 79. In the United States, much of the video game industry “self-regulates” through the
 4 Entertainment Software Ratings Board (“ESRB”). ESRB ratings are based on a content rating
 5 questionnaire completed by the game developer. Developers, including EA, have the ability to
 6 appeal the rating assigned by ESRB. According to the ESRB, age ratings are provided so parents
 7 can choose age-appropriate games for their children:

8 ESRB ratings provide information about what’s in a game or app so parents and
 9 consumers can make informed choices about which games are right for their family.
 10 Ratings have 3 parts: Rating Categories, Content Descriptors, and Interactive
 Elements.

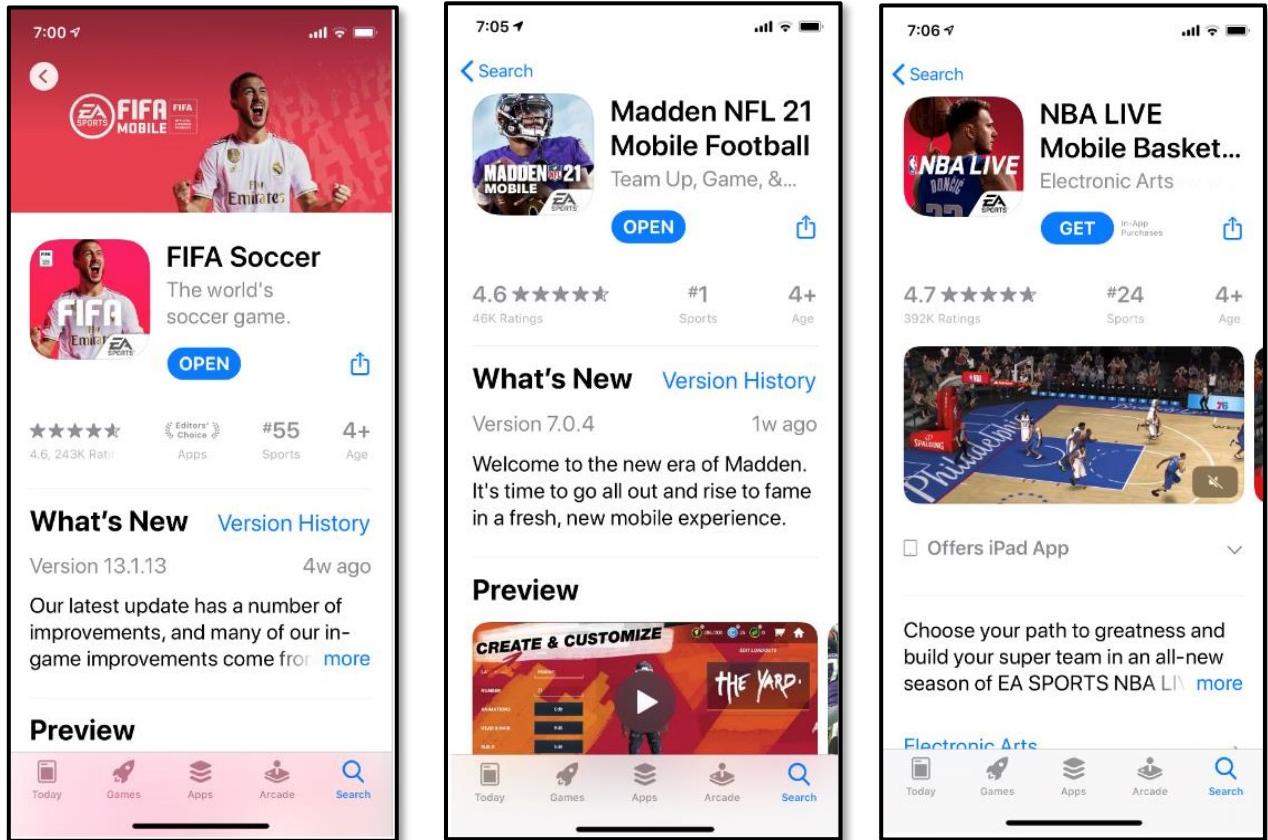
11 80. On its website, the ESRB notes that a game rated “Everyone” tells parents and
 12 gamers that a game’s “content is generally suitable for all ages. [It] may contain minimal cartoon,
 13 fantasy, or mild violence, and/or infrequent use of mild language.” While gambling (real gambling
 14 and simulated gambling) is listed as a content descriptor on ESRB. EA’s “E for Everyone” and “E
 15 10+” ratings do not contain a disclosure that the game contains gambling, or even “simulated
 16 gambling.” Instead, the ESRB only generically discloses “In-Game Purchases.” But what is omitted
 17 in the “Rating” – and never disclosed by EA – is that the “items” that can be purchased “in-game”
 18 are randomized Ultimate Team Packs that are real gambling.

19 81. EA also makes mobile app versions of its Loot Box games available to download
 20 through the Apple App Store and Google Play store. Google lists the ESRB-based age-ratings for
 21 EA’s games. However, Apple does not ascribe to the ESRB ratings system. Instead, Apple has
 22 created its own ratings categories for games available to download in its App Store. The Apple App
 23 Store age ratings are set by the game developer (here, EA).³¹ On the Apple App Store, FIFA,
 24 Madden NFL, and NBA Live are all age-rated “4.”

25 82. Despite being marketed as appropriate for children as young as four years old, the
 26 EA’s mobile game age ratings also do not contain any disclosures concerning gambling or the use

27 ³¹ <https://help.apple.com/app-store-connect/#/dev599d50efb> (Apple’s webpage states the
 28 developer is “required to set an age rating for your app.”).

1 of Loot Boxes. Instead, the only disclosure is the vague and generic statement a game has “In-App
 2 Purchases.” Below are screen shots of the App Store download graphics for EA’s FIFA, Madden
 3 NFL, and NBA Live mobile games:



18 83. Through EA’s efforts, FIFA, Madden NFL, and NBA Live have been rated “E for
 19 Everyone” by the ESRB, NHL has been age-rated “E 10+”, and EA’s mobile versions of FIFA,
 20 Madden NFL and NBA Live are rated “4+” in the Apple App Store. Thus, there is no notice – and
 21 no requirement of any notice by EA – to the parent or the child that a game contains Loot Boxes or
 22 other gambling mechanisms.

23 **EA Earns Huge Profits From Ultimate Team Packs in Its Games**

24 84. EA does not report earnings based on Ultimate Team Packs or other Loot Box
 25 mechanisms specifically. However, EA does report the net revenues for what it calls “extra content
 26 sales” which includes the Loot Box mechanism in all its forms. According to EA’s February 4, 2020
 27 SEC Form 10-Q, *it earned well over \$3 Billion in the last three years*, attributable to this single
 28 income stream:

1 Our most popular live service is the extra content purchased for the Ultimate Team
 2 mode associated with our sports franchises. Ultimate Team allows players to collect
 3 current and former professional players in order to build and compete as a
 4 personalized team. *Net revenue from extra content sales for Ultimate Team was*
5 \$1,369 million, \$1,180 million and \$867 million during fiscal years 2019, 2018 and
6 2017, respectively, a substantial portion of which was derived from FIFA Ultimate
 7 Team.

8 85. EA's revenue from Ultimate Team Packs constitute a large and material percentage
 9 of the entire company's revenues. According to Cowen analyst Doug Creutz, he has estimated that
 10 a third of all Electronic Arts' annual sales came from loot-box-related mechanisms.³²

11 Countries Have Banned Loot Boxes For Violating Gambling Laws

12 86. During the last two years, some countries have banned Loot Boxes (Belgium,
 13 Netherlands, Japan), while regulators in others report current investigations, including in Australia
 14 where a 2018 report concluded Loot Boxes are "psychologically akin to gambling," and in the
 15 United Kingdom where a July 2020 report from the House of Lords urged the government to
 16 immediately "bring loot boxes within the remit of gambling legislation and regulation." Similarly,
 17 lawmakers in Hawaii, Minnesota and Washington introduced state legislation to ban Loot Boxes in
 18 video games.

19 87. For instance, in the study completed in Belgium, the Belgium Gaming Commission
 20 looked at Loot Boxes in a variety of video games and determined that they fit the description of a
 21 game of chance because all the elements of gambling are present. The research singled out EA's
 22 FIFA video game as constituting gambling. The report specifically found:

23 The paid loot boxes in the examined games Overwatch, FIFA 18 and Counter-Strike:
 24 Global Offensive fit the description of a game of chance because all of the
 25 constitutive elements of gambling are present (game, wager, chance, win/loss).

26 88. Likewise, government officials in the Netherlands studied loot boxes in ten popular
 27 games. In its April 2018 report, the Netherlands Gaming Authority determined some Loot Boxes

28 ³² "Loot Boxes' Could Be Trouble for the Videogame Industry. Here's What You Need to
 29 Know." *Barrons*. April 15, 2019. Tae Kim. Available at:
<https://www.barrons.com/articles/videogame-publishers-face-scrutiny-over-the-use-of-lock-boxes-51555120828>.

had elements similar to slot machines, and addiction potential similar to blackjack, roulette and bingo. According to the official report, “all of the loot boxes that were studied could be addictive,” “loot boxes have a moderate to high addiction risk potential,” some “have integral elements that are similar to slot machines” complete with “multiple visual and sound effects are added and a ‘near miss’ effect is used,” and “as a result of opening loot boxes, socially vulnerable groups such as young people could eventually be encouraged to play other games of chance.” Noting that all the Loot Boxes could “foster the development of addiction,” the report from the Netherlands Gaming Authority also observed online gamers attribute significant social status value on themselves and other gamers based on the virtual items they win within Loot Boxes.³³

89. Australian officials also determined the Loot Box mechanism constitutes a form of gambling that targets minors and otherwise acts “as a gateway to problem gambling and associated harm later in life.” Accordingly, the March 2020 report prepared by the Australian House of Representatives Standing Committee on Social Policy and Legal recommended mandatory age verification for Loot Box purchasing:

Given their resemblance to gambling, the Committee considers that loot boxes and other simulated gambling elements in video games should be subject to appropriate age restrictions, including through the use of mandatory age verification.³⁴

90. The March 2020 Australian report was preceded by an October 2019 report from the Australian Gambling Research Centre finding “the use of ‘loot boxes’ or micro-transactions for chance-based items in online video games [is] a form of gambling that is readily accessible to players under the age of 18 years.” This 2019 Australian report also found the presence of Loot Boxes in video games “normalizes gambling”:

The use of for-money, in-game ‘loot boxes’ as a mechanism through which additional in-game items can be obtained familiarises players, many of whom are

³³ Netherlands Gaming Authority (Kansspelautoriteit), *Study into loot boxes: A treasure or a burden?* (Apr. 10, 2018), available at <https://kansspelautoriteit.nl/english/loot-boxes/>.

³⁴ Parliament of the Commonwealth of Australia, House of Representatives Standing Committee on Social Policy and Legal Affairs, *Protecting the age of innocence: Report of the inquiry into age verification for online wagering and online pornography* (Feb. 2020), available at https://parlinfo.aph.gov.au/parlInfo/download/committees/reportrep/024436/toc_pdf/Protectingtheageofinnocence.pdf.

1 less than 18 years of age, with a gambling activity that is practically identical to
 2 games available on external sites. It coexists there with lotteries, eSports betting and
 3 other more explicit gambling activities played in virtual currency. This process of
 4 ‘gambification’ can be seen as analogous to that occurring in the context of sports
 5 betting, whereby gambling practices are becoming increasingly normalised as an
 6 inherent component of sports engagement (Jenkinson, de Lacy-Vawdon, & Carroll,
 7 2018; Lopez-Gonzalez & Griffiths, 2016).³⁵

8 91. On July 2, 2020, nine months after the UK’s Department of Digital, Culture, Media
 10 and Sport concluded that Loot Boxes should be regulated under the UK’s gambling laws, the House
 11 of Lords called for the immediate regulation of loot boxes as gambling: “While we welcome the
 12 government’s intention to consider the relationship between gambling and video gaming, we believe
 13 that this issue requires more urgent attention.” The House of Lords’ report noted the “evidence we
 14 have heard has stressed the urgency of taking action.” According, the House of Lords “echo the
 15 conclusion of the [UK’s] Children’s Commissioner’s report, that if a product looks like gambling
 16 and feels like gambling, it should be regulated as gambling” and therefore recommended that loot
 17 boxes be immediately deemed gambling.³⁶

18 92. Here in the United States, the Federal Trade Commission recently hosted a workshop
 19 on Loot Boxes and U.S. Senators Maggie Hassan (D-NH), and Josh Hawley (R-MO) introduced a
 20 bill co-sponsored by Ed Markey (D-MA) and Richard Blumenthal (D-CT) titled “The Protecting
 21 Children From Abusive Games Act” that would prohibit Loot Boxes in minor-oriented games. The
 22 proposed bill includes a prohibition in minor-oriented games of Loot Boxes, which it defines as “an
 23 add-on transaction to an interactive digital entertainment product that in a randomized or partially
 24 randomized fashion unlocks a feature of the product or adds to or enhances the entertainment value
 25 of the product[.]”

26 ³⁵ Uma Jatkar & Rebecca Jenkinson, *House of Representatives Standing Committee on Social
 27 Policy and Legal Affairs: Submission to the Inquiry into Age Verification for Online Wagering and
 28 Online Pornography*, Australian Gambling Research Center, Australian Institute of Family Studies
 (Oct. 25, 2019).

³⁶ The full report titled “Gambling Harm—Time for Action (July 2, 2020)” from the House of
 29 Lords Select Committee on the Social and Economic Impact of the Gambling Industry is available
 at <https://publications.parliament.uk/pa/ld5801/ldselect/ldgamb/79/79.pdf>.

1 **EA Ultimate Team Packs Constitute Gambling in Violation of California Law**

2 93. EA's Ultimate Team Packs are a form of gambling and violate California's anti-
 3 gambling laws. According to the California Bureau of Gambling Control, by paying for and opening
 4 Loot Boxes within the game, the game is creating a "gambling device." It states:

5 California's gambling device statutes are broad in their coverage and prohibit any
 6 person from owning, renting, or possessing illegal gambling devices. (Penal Code,
 7 §§ 330a, 330b, 330.1.) An illegal gambling device has three features:

- 8 1. It is a machine, apparatus, or device (coin operation is not required);
 9 2. Something of value is given to play the device; and
 10 3. The player has the opportunity to receive something of value by any
 element of hazard or chance ("something of value" is not limited to
 coins, bills, or tokens—it also includes free replays, additional
 playing time, redemption tickets, gift cards, game credits, or
 anything else with a value, monetary or otherwise.) (Penal Code,
 11 §§ 330a, 330b & 330.1.)

12 94. None of these elements can be in dispute. A gamer uses his console, computer,
 13 smartphone or tablet with the EA sports franchise game on it (#1); the gamer pays real-world
 14 currency for the opportunity to open an Ultimate Team Pack (#2); and the Ultimate Team Pack is a
 15 randomized chance to win something valuable in-game (#3).

16 95. The randomized virtual items that may be won by purchasing and opening a Loot
 17 Box have value. Research demonstrates that "[i]n general, [] virtual items are valued for many of
 18 the same reasons as more tangible commodities." Nevertheless, because "the symbolic value of a
 19 virtual good stems from its role and meaning inside the game...A person not part of that social world
 20 would probably not see the good as valuable at all."³⁷ Indeed, there would be no incentive to acquire
 21 or offer Loot Box items, including cosmetics if they did not have some sort of value to the player.

22 96. Economic theories almost all assert market price as the best indicator of value.
 23 Evidence of the real-world value of the randomized Loot Box items includes that where these virtual
 24 items are tradeable for real-world money, substantial transactions of real currency have occurred.
 25 Furthermore, most virtual items are sold for less than the cost of a Loot Box (representing real

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 27 ³⁷ Vili Lehdonvirta, *Virtual item sales as a revenue model: identifying attributes that drive*
 28 *purchase decisions*, Electron Commer Res, 9:97-113 (2009).

1 financial loss), refuting the assertion that no player who opens a Loot Box makes a loss. Likewise,
 2 gamers who purchase virtual items also spend significantly more in total on games demonstrating a
 3 willingness to spend additional money acquiring virtual items and the additional financial value of
 4 these items over and above the game itself.³⁸ Likewise, in games such as EA's games at issue where
 5 the items contained in Loot Boxes are categorized by frequency and rarity, value is inherently
 6 assigned to the items. Moreover, the collection of rare items is seen as a sign of status within the
 7 gaming community, thus ascribing a form of social value to the items.³⁹

8 97. Professors Drummond, Sauer, Hall, Zendle and Loudon specifically analyzed
 9 whether the virtual items that may be won from randomized Loot Boxes have real-world monetary
 10 value. In their 2020 paper published in the top-tier journal Nature, Drummond et al. determined that
 11 Loot Boxes have value using numerous economic theories. The authors concluded:

12 We have demonstrated that virtual items have monetary value to gamers irrespective
 13 of whether they can be cashed out. Therefore, randomised virtual items (loot boxes)
 14 purchased for real money likely satisfy the requirements of value needed to meet the
 legal definitions of gambling in many jurisdictions.⁴⁰

15 98. In fact, there is a market for EA Ultimate Team accounts, items and coins to be
 16 bought and sold outside of the game itself. The value, or price, of each game account is determined
 17

19 ³⁸ Drummond et al., *Why loot boxes could be regulated as gambling*, *Nature Human Behavior*,
 20 DOI 10.1038/s41562-020-0900-3 (2019). Drummond and co-authors analyzed sales of 2,319 virtual
 21 items from three popular games. In the aggregate, sales of the virtual items exceeded one billion
 22 dollars, with the individual items being sold for between \$0.03 and \$743.80 each. "Contradicting
 23 the common argument that loot boxes are not gambling because no player loses upon opening a loot
 24 box" the "overwhelming majority of players incur financial losses when on-selling loot box items,
 25 with ~93% of sales recouping less than the purchase price."

26 ³⁹ For instance, Dr. Vili Lehdonvirta, an economic sociologist, professor at the University of
 27 Oxford and former game developer, points out that in the game *Ultima Online*, "one of the most
 28 highly valued virtual items in the whole system was a small brown lump named 'horse dung'. Despite its very modest appearance and complete lack of performance or functionality, people have paid the equivalent of hundreds of U.S. dollars for the item." Vili Lehdonvirta, *Virtual item sales as a revenue model: identifying attributes that drive purchase decisions*, *Electron Commer Res*, 9:97-113 (2009).

29 ⁴⁰ Drummond et al., *Why loot boxes could be regulated as gambling*, *Nature Human Behavior*,
 30 DOI 10.1038/s41562-020-0900-3 (2019).

1 by the “Loot” the player possesses in the account. There is even a selection of online companies,
 2 including playerup.com who claim to specialize in buying and selling these video game accounts.⁴¹

3 99. As noted by Wesley Yin-Poole, the deputy editor of *Euro Gamer*: “You can, quite
 4 easily, cash out.” There are numerous websites that allow you to sell your Ultimate Team coins for
 5 cash.⁴²

6 These websites ensure everything involved in your standard Ultimate Team card
 7 pack transaction has a real world value, albeit indirectly. Say you get a player you
 8 don’t want. Successfully sell him on the official, in-game auction house for [FIFA
 9 Ultimate Team] coins. Then, you can sell those [FIFA Ultimate Team] coins on a
 10 third-party website for cash.⁴³

11 100. Whether the potential Loot Box items make playing the game easier and more
 12 winnable (“functional” items) or allow players to customize the look of their in-game characters
 13 (“cosmetic” items), all Loot Boxes provide a completely randomized chance to win valuable items.
 14 For example, Hamari et al. (2017) observed the value of in-game items that may be obtained to
 15 “personalize” video game characters: “One prominent value proposition of a lot of in-game content
 16 is that it affords players to differentiate themselves from other players by personalizing their avatar
 17 or other belonging in-game.”⁴⁴ Lehdonvirta (2009) also observed that both functional and cosmetic
 18 attributes of virtual goods drive consumers’ purchase decisions. “It could even be speculated that in
 19 some cases the functional attributes of a virtual good serve only as an excuse for a purchase that is

20

21 ⁴¹ Getting Started: About Us, PLAYERUP, <https://www.playerup.com/support-tickets/knowledge-base/getting-started-about-us.33/> (last visited Aug. 3, 2020) (“PlayerUp is a free online platform for players of massive multiplayer online (MMO) games to buy, sell, and trade digital accounts.”).

22

23 ⁴² See, e.g. the following websites: <https://www.utstore.com/>, <https://www.mmoga.com/>,
<https://www.playerauctions.com/>, <https://www.buyfifacoins.com/>.

24

25 ⁴³ “When it comes to FIFA 18, you can most definitely cash out,” *Eurogamer*, Yin-Poole,
 26 Wesley (October 23, 2017). Available at <https://www.eurogamer.net/articles/2017-10-23-when-it-comes-to-fifa-18-you-can-most-definitely-cash-out> .

27

28 ⁴⁴ Hamari J, Alha K, Järvelä S, Kivikangas JM, Koivisto J, & Paavilainen J, *Why do players buy in-game content? An empirical study on concrete purchase motivations*, Computers in Human Behavior, 68:538-546 (2017).

1 primarily motivated by hedonic or social aspects, a technique commonly applied in marketing high-
 2 performance automobiles.”⁴⁵

3 101. Because of scarcity bias (i.e., humans place a higher value on an object that is scarce),
 4 players gamble money to open Loot Boxes hoping they can win the “rare” Loot Box items
 5 considered more valuable than the “common” items, which are often worthless duplicates.⁴⁶
 6 Knowing this, EA and other game developers “manufacture rarity (also known as ‘artificial
 7 scarcity’) to increase the value of the assets they are selling.”⁴⁷

8 102. EA is fully aware of the market for Ultimate Team virtual currency and that currency
 9 is sold for millions of dollars each year. In fact, EA testified in a federal criminal trial to help obtain
 10 the criminal conviction of wire fraud against a FIFA game hacker for illegally obtaining EA’s virtual
 11 coins. As explained by the Department of Justice, the coins have real value and can easily be
 12 exchanged for real currency:

13 Clark and his co-conspirators circumvented multiple security mechanisms created
 14 by EA in order to fraudulently obtain FIFA coins worth over \$16 million.
 15 Specifically, Clark and his co-conspirators created software that fraudulently
 16 logged thousands of FIFA Football matches within a matter of seconds, and as a
 17 result, EA computers credited Clark and his co-conspirators with improperly earned
 18 FIFA coins. Due to the popularity of FIFA Football, a secondary market has
 19 developed whereby FIFA coins can be exchanged for U.S. currency. Clark and his
 20 co-conspirators subsequently exchanged their FIFA coins on the secondary market
 21 for over \$16 million.⁴⁸

22 103. EA admits its Loot Boxes provide gamers the chance to hit the big time by winning
 23 valuable items. For instance, discussing “5 reasons to play FIFA mobile,” EA states these in-game

24 45 Vili Lehdonvirta, *Virtual item sales as a revenue model: identifying attributes that drive*
purchase decisions, Electron Commer Res, 9:97-113 (2009).

25 46 Mittone L, Savadori L, “The Scarcity Bias,” *Applied Psychology*. 58(3): 453-468 (2009).

26 47 Vili Lehdonvirta, *Virtual item sales as a revenue model: identifying attributes that drive*
purchase decisions, Electron Commer Res, 9:97-113 (2009) (“Rarity is perhaps the most socially
 27 oriented attribute of virtual goods, because its value is strongly associated with its ability to
 distinguish a (small) group of owners from non-owners.”)

28 48 <https://www.justice.gov/usao-ndtx/pr/fourth-defendant-convicted-scheme-defrauded-software-company-more-16-million-worth> .

Ultimate Team purchases can be used to enhance certain gameplay elements: “Find and add players with certain stats boosts to give your side that extra advantage on the pitch.”⁴⁹

CLASS ACTION ALLEGATIONS

104. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff seeks certification of a nationwide class consisting of:

All persons who paid to receive randomized virtual items from an “Ultimate Team Pack” purchase within an Electronic Arts video game.

105. The Class excludes EA's officers and directors, current or former employees, including their immediate family members, as well as any judge, justice or judicial officer presiding over this matter and members of their immediate families and judicial staff. Plaintiff reserves the right to amend the Class definition or include subclasses if discovery and further investigation reveal that the Class should be expanded or otherwise modified.

106. Plaintiff's claims are typical of the claims of the members of the Class, because Plaintiff and all other members of the Class were damaged by the same wrongful conduct committed by Defendant, as alleged more fully herein.

107. Plaintiff will fairly and adequately protect the interests of the Class. The interests of the class representative are coincident with, and not antagonistic to, the interests of the other members of the Class.

108. Plaintiff has retained counsel competent and experienced in the prosecution of class action litigation.

109. Questions of law and fact common to the members of the Class are central here and predominate over questions that may affect only individual members. Among the questions of law and fact common to the Class are:

(a) Whether EA's Ultimate Team Packs (or similar device) are gambling under California law:

[49 https://www.ea.com/games/fifa/news/5-reasons-fifa-mobile](https://www.ea.com/games/fifa/news/5-reasons-fifa-mobile)

(b) Whether EA's Ultimate Team Packs constitute an unlawful business practice under Cal. Bus. and Prof. Code §17200, *et seq.*;

(c) Whether EA's Ultimate Team Packs constitute an unfair business practice under Cal. Bus. and Prof. Code §17200, *et seq.*;

(d) Whether Defendant's Ultimate Team Packs constitute gambling or create a gambling device under California law an in violation of Cal. Pen. Code §§ 330, *et seq.*;

(e) Whether EA violated California Civil Code §1770(a)(14);

(f) Whether EA was unjustly enriched as a result of the conduct alleged herein;
and,

(g) Whether EA's conduct violated the other provisions of statutory and common law outlined in this Complaint.

110. A class action is superior to all other available means for the fair and efficient adjudication of this controversy. Individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. The burden and expense that would be entailed by individual litigation makes it impracticable or impossible for Class members to prosecute their claims individually. Further, the adjudication of this action presents no unusual management difficulties.

111. Unless a class is certified, EA will retain monies received as a result of its improper conduct. Unless a classwide injunction is issued, EA will continue to commit the violations alleged, and will continue to promote and engage in the unfair and unlawful gambling activities discussed herein. EA has acted or refused to act on grounds that are generally applicable to the Class so that injunctive and declaratory relief is appropriate to the Class as a whole.

FIRST CAUSE OF ACTION

Unlawful and Unfair Business Practices in Violation of the California Unfair Competition Law (“UCL”) (Cal. Bus. & Prof. Code §§ 17200, et seq.)

112. Plaintiff realleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

1 113. Plaintiff and Defendant are “persons” within the meaning of the UCL. Cal. Bus. &
 2 Prof. Code § 17201.

3 114. The UCL defines unfair competition to include any “unlawful, unfair or fraudulent
 4 business act or practice.” Cal. Bus. Prof. Code § 17200.

5 115. By committing the acts and practices alleged herein, EA has engaged in unlawful
 6 and unfair business practices in violation of the UCL.

7 116. Unlawful Conduct: As a result of engaging in the conduct alleged in this Complaint,
 8 EA has violated the UCL’s proscription against engaging in unlawful conduct by virtue of its
 9 violation of California’s gambling laws, its violation of Federal gambling laws, and its violations of
 10 the California Civil Code §§ 1710 and 1711, as well as the Consumers Legal Remedies Act,
 11 California Civil Code § 1770(a)(14).

12 117. More specifically, EA has violated the UCL’s proscription against engaging in
 13 “unlawful” business practices by virtue of its conduct in violation of California Business &
 14 Professions Code §§ 19800, *et seq.*, California Penal Code §§ 330, *et seq.*, the Illegal Gambling
 15 Business Act (18 U.S.C. § 1955), and the Unlawful Internet Gambling Enforcement Act of 2006
 16 (31 U.S.C. §§ 5361-5367) as set forth herein. Plaintiff reserves the right to allege other violations
 17 of law, which constitute other unlawful business acts or practices. Such conduct is ongoing and
 18 continues to this date.

19 118. Unfair Conduct: In the course of conducting business, EA has violated the UCL’s
 20 proscription against “unfair” business practices by, among other things:

21 (a) Engaging in the conduct alleged in this Complaint, which is illegal and also
 22 violates legislatively-declared policies articulated in, *inter alia*, California Business & Professions
 23 Code §§ 19800, *et seq.*, California Penal Code §§ 330, *et seq.*, the Illegal Gambling Business Act
 24 (18 U.S.C. § 1955), and the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C.
 25 §§ 5361-5367) by conducting illegal and unlicensed gambling business including at places not
 26 suitable for gambling activities, knowingly accepting payments from those who participated in
 27 Defendant’s unlawful Internet gambling, and promoting predatory gambling as entertainment for
 28 children and families;

(b) Intentionally profiting from conduct designed to create and/or exploit addictive tendencies in vulnerable minors, and adolescents in particular; and,

(c) Omitting important information and misleading parents of vulnerable minors and adolescents concerning the addictive, costly and random chance nature of the Loot Box mechanism and its use in Defendant's games.

119. EA has also violated the UCL's proscription against unfair conduct as a result of engaging in the conduct alleged in this Complaint, which violates legislatively-declared policies articulated in, *inter alia*, California Civil Code §§ 1710, 1711, and 1770(a)(14).

120. There is no societal benefit from EA's conduct which includes promoting addictive gambling as entertainment for children and families. There is only harm from EA's conduct. While Plaintiff was harmed, EA was unjustly enriched by its deceptive, predatory and harmful conduct. As a result, EA's conduct is "unfair," as it offended an established public policy. Further, EA engaged in immoral, unethical, oppressive, and unscrupulous activities that are substantially injurious to consumers as the gravity of EA's conduct outweighs any alleged benefits attributable to such conduct.

121. There were reasonably available alternatives to further EA's legitimate business interests, other than the conduct described herein.

122. EA's violations of the UCL continue to this day. As a direct and proximate result of EA's violations of the UCL, Plaintiff has suffered actual damage in that he paid for and downloaded games, and paid for illegal Loot Boxes and other gambling mechanisms, and subjected themselves to exploitative games as alleged herein.

123. Unless restrained and enjoined, EA will continue to engage in the unlawful and unfair conduct described herein.

124. Pursuant to Section 17203 of the UCL, Plaintiff and the Class seek an Order that requires EA: (a) to modify its games in a manner that prevents its users from engaging in gambling, including through the use of Ultimate Team Packs or similar mechanisms; (b) to provide owners of EA with notice that the game is being modified to eliminate Ultimate Team Packs; (c) to provide restitution of all money obtained from Plaintiff and other members of the Class as a result of EA's

1 unfair competition; and (d) requires EA to pay the attorney fees and costs incurred by counsel for
 2 Plaintiff and the proposed Class in accordance with California Code of Civil Procedure § 1021.5.

3 **SECOND CAUSE OF ACTION**

4 **Violation of the California Consumers Legal Remedies Act (“CLRA”)**
 5 **(Cal. Civ. Code §§ 1750, et seq.)**

6 125. Plaintiff realleges and incorporates by reference the allegations set forth in each of
 7 the preceding paragraphs of this Complaint.

8 126. This claim for relief is brought pursuant to the CLRA. Plaintiff and members of the
 9 Class are “consumers,” as that term is defined by Civil Code §1761(d), because they bought video
 10 games and in-game Ultimate Team Packs for personal, family, or household purposes.

11 127. Plaintiff and Class members have engaged in a “transaction” with EA, as that term
 12 is defined by Civil Code §1761(e).

13 128. The conduct alleged in this Complaint constitutes unfair methods of competition and
 14 unfair and deceptive acts and practices for the purposes of the CLRA, and were undertaken by EA
 15 in transactions intended to result in, and which resulted in, the sale of goods to consumers; namely,
 16 the sale of video games and Ultimate Team Packs in the video games sold by EA to Plaintiff and
 17 Class members.

18 129. By engaging in the conduct described herein, EA has violated subdivision (a)(14) of
 19 California Civil Code § 1770 by,

20 (14) Representing that a transaction confers or involves rights, remedies, or
 21 obligations that it does not have or involve, or that are prohibited by law.

22 130. Defendant violated the CLRA by representing to Plaintiff and Class members that
 23 transactions involving Ultimate Team Packs confer or involve rights to potentially valuable prizes,
 24 when in fact these transactions constitute unlawful gambling transactions that are prohibited by law.

25 131. Defendant’s violations of the CLRA proximately caused injury in fact to Plaintiff
 26 and the Class.

132. Plaintiff and the Class members transacted with Defendant on the belief that the transaction was lawful. Indeed, a reasonable consumer believes in the lawfulness of his or her transactions.

133. Pursuant to Cal. Civ. Code § 1782(d), Plaintiff, individually and on behalf of the other members of the Class, seeks a Court order enjoining the above-described wrongful acts and practices of Defendant and for restitution and disgorgement.

134. Pursuant to Cal. Civ. Code § 1782(a), Defendant was notified in writing by certified mail of the particular violations of Section 1770 of the CLRA, which notification demanded that Defendant rectify the problems associated with the actions detailed above and give notice to all affected consumers of Defendant's intent to so act. A copy of the letter is attached as Exhibit A.

135. If Defendant fails to rectify or agree to rectify the problems associated with the actions detailed above and give notice to all affected consumers within 30 days of the date of written notice pursuant to § 1782 of the Act, Plaintiff will amend this Complaint to add claims for actual, punitive and statutory damages, as appropriate.

136. Defendant's conduct is fraudulent, wanton, and malicious.

137. Pursuant to § 1780(d) of the Act, attached hereto as Exhibit B is the affidavit showing that this action has been commenced in the proper forum.

THIRD CAUSE OF ACTION

Unjust Enrichment

138. Plaintiff realleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

139. By its wrongful acts and omissions, EA was unjustly enriched at the expense of and to the detriment of Plaintiff and the Class. EA was unjustly enriched as a result of the compensation it received from marketing and selling the unlawful and unfair Ultimate Team Packs to Plaintiff and the Class.

140. Plaintiff and the Class seek restitution from EA and seek an order of this Court disgorging all profits, benefits, and other compensation obtained by EA from its wrongful conduct.

141. Plaintiff and the Class have no adequate remedy at law.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, pray for relief in this Complaint as follows:

- (a) For an order certifying the Class as requested herein;
 - (b) For restitution and disgorgement of the revenues wrongfully retained as a result of EA's wrongful conduct;
 - (c) For declaratory and injunctive relief as permitted by law or equity, including enjoining EA from continuing the unlawful practices as set forth herein;
 - (d) For an award of attorney fees, where applicable;
 - (e) For an award of costs; and
 - (f) For any and all other relief the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Based on the foregoing, Plaintiff, on behalf of himself, and all others similarly situated, hereby demand a jury trial for all claims so triable.

Respectfully submitted,

Dated: August 13, 2020

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